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ABSTRACT

In May 2002, President Bush signed in to law the Enhanced Border Security and Visa Reform Act (Public Law No. 107-173), which contains provisions that will affect foreign students and colleges and universities. In addition, the U. S. Immigration and Naturalization Service (INS) has implemented proposed and interim regulations that affect visa applications and change of status for foreign students. In Connecticut, the Department of Motor Vehicles (DMV) has also issued interim rules regarding the issuing of driver's licenses to nonresident aliens. This report presents a brief summary of these new provisions. Current and proposed federal laws and regulations may create challenges for foreign students and institutions of higher education in these areas: (1) increased difficulty in gaining visas; (2) limited ability to obtain visas from countries other than their own; (3) a limit to students' ability to change visa status after they arrive in the United States; (4) implementation of a new visa system; (5) ethical problems for institutions of higher education in deciding whether to ask students about their visa status; (6) changes in the relationship between institutions of higher education and foreign students; and (7) challenges for institutions of higher education in administering new policies. Institutions of higher education in Connecticut may need to establish a closer working relationship with the DMV to monitor progress in driver's license procedures. An appendix contains the Enhanced Border Security and Visa Entry Reform Act of 2002. (SLD)

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An Analysis of New Foreign Student Related Provisions in Federal and State Laws and Regulations

June 19, 2002

Connecticut Department of Higher Education

U.S. DEPARTMENT OF EDUCATION
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STATE OF CONNECTICUT
BOARD OF GOVERNORS FOR HIGHER EDUCATION
DEPARTMENT OF HIGHER EDUCATION

An Analysis of New Foreign Student Related Provisions in Federal and State Laws and Regulations

June 19, 2002

On May 14, 2002, President Bush signed into law the *Enhanced Border Security and Visa Reform Act* (Public Law No. 107-173, formerly H.R. 3525, see Appendix I). This act contains provisions that will affect foreign students and colleges and universities. In addition, the U. S. Immigration and Naturalization Service (INS) has implemented proposed and interim regulations that affect visa applications and change of status for foreign students. In Connecticut, the Department of Motor Vehicles (DMV) has also issued interim rules regarding the issuance of driver licenses to non-resident aliens[1]. The following presents a brief summary of the implications of these provisions.

Background

Foreign Student Enrollment in Connecticut[2]

Among 164,675 graduate and undergraduate students enrolled in Connecticut public and independent institutions of post-secondary education in the Fall Semester of 2001, 7,109 (4.3%) are non-resident aliens. Table 1 represents institutions with above 5% non-resident alien enrollment. Figures 1, 2 and 3 represent non-resident alien enrollment by institutional category, levels of study, and by priority areas. The majority of foreign students are enrolled at the University of Bridgeport, University of Connecticut, and Yale University (60.7%), in graduate programs of study (57%) across the Connecticut institutions, and in federal IPEDS[3] defined priority areas of biology,

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[1] The term "non-resident aliens" in this brief refers to foreign students who are neither U. S. citizens nor U. S. permanent residents. The majority of them in Connecticut colleges and universities hold an F-1/M-1 full time student visa, or a J-1 full time exchange student visa. A very small number of them are presumed to either hold other legitimate non-immigrant visas such as the H, L, or O visa for temporary employment and their dependents, or be currently in immigration visa application proceedings. The U. S. Department of Education Integrated Post-Secondary Education Data System (IPEDS) does not contain information of student visa categories and status. Therefore, there is no information available on any illegal immigrant enrollment.

[2] Foreign student enrollment data is extracted from the IPEDS 2002 database through the Connecticut Department of Higher Education, hereinafter referred to as DHE, 2002. Gibbs College data has been adjusted (from 60 in the database to 1) due to the College's data entry error, per Dan Shields of the College. For more information, contact John Pothier, Connecticut Department of Higher Education, 61 Woodland Street, Hartford, CT 06105-2326. Telephone: (860) 947-1837.

[3] See footnote 1 on IPEDS.

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business, dentistry, education, engineering, law, mathematics, medicine, and physics (42.6%).

Table 1. Fall 2001 Connecticut institutions with above 5% non-resident alien enrollment (DHE, 2002)

Institution	Total	Non-Resident Alien	Percentage of Non-Resident Alien
Rensselaer at Hartford	1,550	83	5.4%
University of Hartford	6,844	371	5.4%
University of Connecticut-Storrs	19,876	1,273	6.4%
Hartford Seminary	147	11	7.5%
Wesleyan University	3,237	247	7.6%
University of New Haven	4,229	374	8.8%
Yale University	11,136	1,809	16.2%
University of Bridgeport	3,162	1,236	39.1%
International College of Hospitality Management	110	98	89.1%
St. Basil College	20	20	100%

Figure 1. Fall 2001 non-resident alien enrollment in Connecticut colleges and universities by institutional category (DHE, 2002)

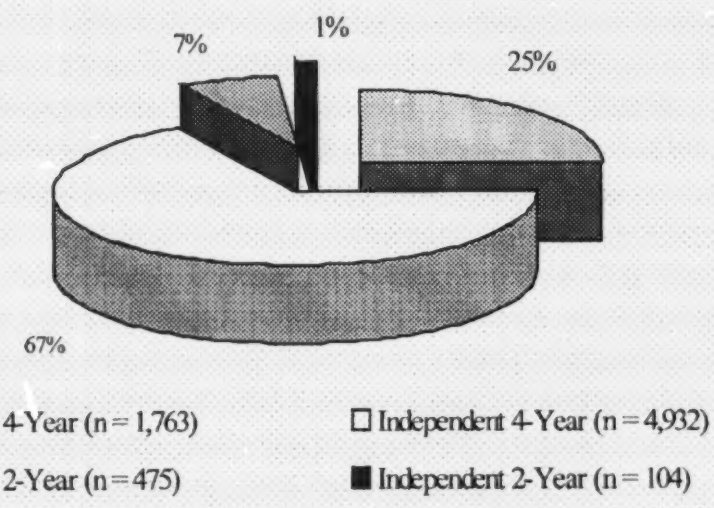

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Figure 2. Fall 2001 non-resident Alien Enrollment in Connecticut colleges and universities by levels of study (DHE, 2002)

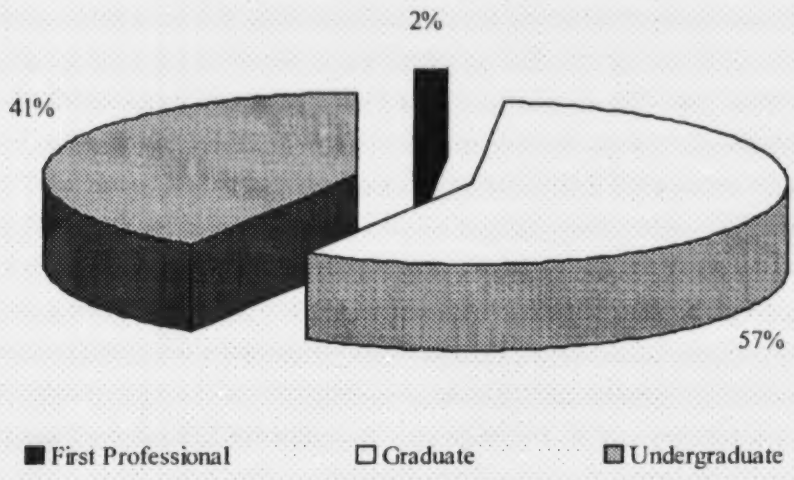
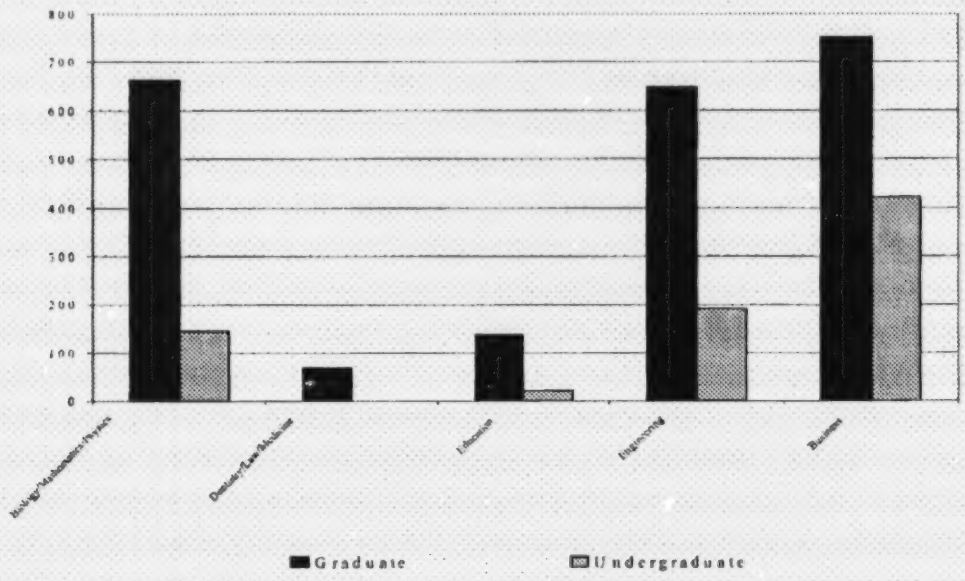


Figure 3. Fall 2001 non-resident alien enrollment in Connecticut colleges and universities by priority areas (DHE, 2002)



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Foreign Students' Economic Impact on Connecticut

According to the NAFSA Association of International Educators (NAFSA)[4], the net contributions to the State of Connecticut economy by foreign students and their families reach $187,508,000 during the 2000-2001 academic year. This figure includes $107,469,000 from tuition and fees, $144,649,000 from living expenses, and $8,000,000 from the living expenses by their dependents. The total figure also excluded a formulated U. S. support of 28.8% ($72,609,000) such as scholarships, graduate assistantships, and on-campus employment awarded to the foreign students.

Student Visa Designations

Foreign students seeking to study in the U.S. may enter in the F-1 or M-1 category provided they meet the following criteria (8 C.F.R. §214.2 (f) & (m)):

- The student must be enrolled in an "academic" educational program, a language-training program, or a vocational program;
- The school must be approved by the INS;
- The student must be enrolled as a full-time student at the institution;
- The student must be proficient in English or be enrolled in courses leading to English proficiency;
- The student must have sufficient funds available for self-support during the entire proposed course of study; and
- The student must maintain a residence abroad, which he/she has no intention of giving up.

Exchange students and scholars may enter in the J-1 visa category (8 C.F.R. §214.2 (j)). The exchange alien means "an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Director of the United States Information Agency[5], for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying him or following to join him." (*Immigration and Nationality Act* (INA) §101(a)(15)(J))

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[4] NAFSA (2001). *The Economic Benefits of International Education to the United States of America: A Statistical Analysis*. Washington, DC: Author. See <www.nafsa.org/content/PublicPolicy/DataonInternationalEducation/econBenefits.htm>.

[5] The United States Information Agency no longer exists as a separate federal agency. It is now part of the U. S. Department of State. The J visa program is, therefore, administered by the Department of State.

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New Provisions of the Federal Legislation and Other Regulations

New Law Currently in Effect

The newly-signed *Enhanced Border Security and Visa Entry Reform Act*[6]:

- Prohibits the federal government from issuing a visa, including a student visa, to an individual from a country that the State Department considers to be a state sponsor of terrorism until a determination has been made, through certain background checks, that the individual does not pose a risk to the United States. Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria are currently on the State Department's official list.

- Requires F, M, and J student visa applicants to provide the following information on the visa application:
  - ✓ address in country of origin;
  - ✓ names and addresses of spouse, children, parents, and siblings;
  - ✓ names of references who can verify this information; and
  - ✓ employment history, including names and addresses of employers.

- Requires the establishment of electronic means to monitor and verify:
  - ✓ issuance of documentation of acceptance of a foreign student or exchange visitor by an institution (Forms I-20 A-B, M-N or DS-2019[7]);
  - ✓ transmittal of such documentation to the State Department;
  - ✓ issuance of an F, J, or M visa;
  - ✓ admission of holders of such visas into the United States;
  - ✓ notification to institutions of a student or exchange visitor's admission to the United States ;
  - ✓ registration and enrollment of the student or exchange visitor in his or her program; and
  - ✓ other relevant acts, including transfers and termination of studies.

- Requires schools to report the failure of a person, whose arrival is expected, to enroll within 30 days after the end of its enrollment period. A similar provision applies to exchange visitor programs.

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[6] The summary of the *Enhanced Border Security and Visa Reform Act* is extracted from the original text, and analyses provided by: NAFSA (2002). *Foreign Student-Related Provisions of Public Law No. 107-173, The Enhanced Border Security and Visa Entry Reform Act (H.R. 3525) Signed into law by President Bush on May 14, 2002.* <www.nafsa.org/content/publicpolicy/NAFSAontheIssues/bordersecurity.htm>; and Sagamore Associates (2002). *Memorandum to Paul Lingenfelter at the State Higher Education Executive Officers (SHEEO) regarding foreign student visa reform.* May 8.

[7] Form I-20 A-B (Certificate of Eligibility for Nonimmigrant (F-1) Student Status for Academic and Language Students), Form I-20 M-N (Certificate of Eligibility for Nonimmigrant (M-1) Student Status for Vocational Students, and DS-2019 (formerly IAP-66) (Certificate of Eligibility for Exchange Visitor (J-1) Status).

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- Requires schools and exchange visitor programs to report the following additional information under the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* (IIRAIRA), section 641, through the INS Student and Exchange Visitor Information System (SEVIS), which is currently under development[8]:

  - ✓ start date of the student's next term or session and degree program if applicable;
  - ✓ fields of study;
  - ✓ student dropping below full courses of study without prior authorization;
  - ✓ students' failure to maintain status or complete programs;
  - ✓ changes of the students' or dependents' legal names or addresses;
  - ✓ disciplinary action taken by the school against the student as a result of the student being convicted of a crime;
  - ✓ students' graduation prior to the program end date listed on the school issued INS I-20 admissions form; and
  - ✓ date of and reason for termination of enrollment.

- Requires the Attorney General to prescribe by regulation reporting requirements under IIRAIRA, section 641, "taking into account the curriculum calendar" of the school or exchange visitor program.

- Requires the Attorney General to provide to the State Department a list of all educational institutions that are authorized to receive F and M non-immigrant students.

- Requires the INS, in the case of schools, and the State Department, in the case of exchange visitor programs, to conduct reviews once every two years to determine that the institutions are in compliance with their record keeping and reporting requirements under the *Immigration and Nationality Act* and *IIRAIRA*. An institution's material failure to comply with such requirements would result in the termination or suspension for at least one year, at the election of the INS Commissioner or Secretary of State, of that institution's approval or designation to receive foreign students or exchange visitors.

The *Enhanced Border Security and Visa Entry Reform Act* contains certain "transitional" provisions that will take effect 120 days after May 14, 2002, and will remain in effect until the full implementation of SEVIS. Those that directly affect schools are:

- An F, M, or J visa may not be issued unless the school has provided to the State Department "electronic evidence of documentation of the alien's acceptance" and the consular officer has reviewed the applicant's visa record.

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[8] INS plans to begin implementation of SEVIS on a voluntary basis with institutions of higher education on July 1, 2002. Under the proposed rule, participation will become mandatory by January 30, 2003.

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- The State Department must notify the INS of the issuance of the visa.
- The INS must notify the school that an alien accepted by that school has been admitted to the United States.
- Not later than 30 days after the deadline for registering for classes for the academic term, the institution must notify the INS of the failure of an alien, with respect to whom the institution has received a notification of admission to the United States, to enroll or commence participation.

The INS and the State Department have not yet issued regulations regarding how these transitional requirements will be fulfilled.

In addition, the Aviation and Transportation Security Act (Public Law No. 107-71, 115 Stat. 597), enacted on November 19, 2001, imposed new restrictions on providing flight training to aliens and require advance notification to the Attorney General before such training can begin[9].

INS Regulations Currently in Effect

The INS announced an interim rule in the *Federal Register* (Vol. 67, No. 71) on April 12, 2002, under which foreign citizens who are visiting the United States (B-1/B-2 visa holders) and want to study at an American college will have to wait to begin their course work until their request for change of status to student status has been approved by the INS. Previously, foreign citizens who were in the United States on tourist (B-2) or business (B-1) visas, and who had applied to change their visa status to a student visa, could begin college courses while the INS processed their request. The INS said they will try to process such applications within 30 days. Foreign citizens who have already begun college courses at an American campus while awaiting a decision will be allowed to continue their studies. The INS also put forth a proposal to prevent people who enter the country on business or tourist visas from changing those visas to student visas unless they had stated at the time of their arrival an intention to study in the United States.

INS Regulations Currently Proposed

On May 16, 2002, the INS published a proposed rule that would begin the process of implementing SEVIS[10]. This proposed rule:

- Limits the advanced grace period to 30 days from the current 60 days;
- Clarifies that an F-1 student's duration of status includes an additional 60 days to depart the U. S. when the student has completed the course of study or after completion of the authorized practical training. The 60-day "grace period" does not apply to F-1 students who do not complete their programs, who fail to maintain full courses of study, or who fall out of status for any other reason.

[9] West Group (2002). INS proposes rule implementing electronic reporting, additional limits, on F, J. M nonimmigrants. In *Interpreter Releases, Vol. 79.* (No. 21). May 20. P. 775.
[10] Ibid. Pp. 773-775.

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Similar restrictions apply to M-1 and J-1 nonimmigrants with a 30-day "grace period" to depart U. S.;

- Prohibits full-time study by F-2 and M-2 spouses and restrict such study by F-2 and M-2 children;
- Requires all schools to be re-certified by INS;
- Requires schools to use SEVIS to track program extensions, transfers, authorized employment and reduced course load;
- Creates a new category of the Designated School Official (DSO), the Principal DSO (PDSO), and a new support position, the Administrative School Official (ASO);
- Limits the number of DSO's;
- Requires any DSO or PDSO be a U. S. citizen or lawful permanent resident and the INS would have the authority to reject the submission of a particular person as a DSO, PDSO, or ASO;
- Notes that flight training schools are among those approved for attendance by M-1 students.

On June 5, 2002, Attorney General John Ashcroft proposed a rule that would require the government to begin fingerprinting, photographing, and keep detailed background information on some foreigners, including student visa holders. It could affect 20,000 foreign students living in the United States, and may further add to a back-log of the implementation of SEVIS[11].

Additional Policies Considered

According to the Sagamore Associates[12], the Bush Administration "is considering additional foreign-student policies including barring some international students from studying in certain academic fields that have a "direct application to the development and use of weapons of mass destruction" such as chemical engineering, nuclear technology, biotechnology, advanced computer technology, and robotics. The higher education community has urged the Administration to focus the government's efforts on making it harder for terrorists to enter the United States rather than limiting the education options of foreign students. Some educators are concerned that in certain scientific fields, universities depend heavily on foreign students and would not be able to keep up the quality of their graduate programs. The White House announced on May 7, 2002, that it would create an Interagency Panel on Advanced Science Security (IPASS) to evaluate and screen foreign students desiring to study in sensitive areas. IPASS will include representatives from the Central Intelligence Agency, the Federal Bureau of Investigation, the INS and the State Department."

[11] Morgan, R. (2002). Justice department proposes fingerprint registry for some foreign visitors. In *The Chronicle of Higher Education On-Line*. (June 6).
[12] Sagamore Associates (2002). Ibid., p. 3.

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Specific Concerns

In January 2002, the NAFSA expressed the following two specific concerns regarding the implementation of SEVIS[13]:

Implementation

> The higher education community remains committed to doing everything in its power to comply with the requirements that are imposed on it. But it needs cooperation from the INS. Better and more timely technical information is needed to enable schools to develop or acquire the necessary systems and technology. INS must take seriously the requirement in the law that existing software be used where possible. Student monitoring is an unfunded federal mandate; the cost to schools of complying with unnecessarily complex and expensive reporting requirements will ultimately be borne by American students who will not receive the educational benefits that could have been provided with those resources.

Funding

> NAFSA believes that the monitoring system is a public good and, as such, should be funded with public money. IIRAIRA provided otherwise, requiring that the system be financed through a fee to be paid by the student. However, the FY 2002 DOD appropriations act provided $36.8 million for the system's start-up costs. This makes possible the resolution of two longstanding concerns. First, INS should now do a new fee study leading to the promulgation of a significantly reduced fee. Second, INS should work with the higher education community to devise a more efficient and user-friendly fee collection mechanism than the one now being contemplated. The international student market is highly competitive, and a cumbersome fee-collection process will drive students to other countries.

On June 12, 2002, NAFSA submitted to the INS its comments on the May 16th proposed rule[14]. On behalf of 32 national higher education organizations, the American Council on Education (ACE) submitted its comments on June 14, 2002[15]. The comments of the two organizations share the following main points:

- This rule and the forthcoming rule on J Visa/SEVIS must be considered integrally;
- The rule must provide for system breakdown;
- The Attorney General, not the schools, is responsible for the development of the information system;
- Under the law, the INS cannot require full reporting under the SEVIS system until the Attorney General has fulfilled his responsibility under the law to fully develop and test that system;
- The full SEVIS reporting system is very far from being available to schools;

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[13] NAFSA (2002). *International student monitoring*. Washington, DC: Author. See <www.nafsa.org/content/publicpolicy/NAFSAontheIssues/monitoring.htm>.

[14] Johnson, M. M. (2002). *Letter to the Director of Regulations and Forms Services Division of the Immigration and Naturalization Service, June 12*. Washington, DC: NAFSA. See <http://www.nafsa.org/content/pubiicpolicy/NAFSAontheIssues/NAFSAcommentletterfinal.pdf>.

[15] Ward, D. (2002). *Letter to the Director of Regulations and Forms Services Division of the Immigration and Naturalization Service, June 14*. Washington, DC: American Council on Education. See <http://www.acenet.edu/washington/letters/2002/06june/ins.sevis.cfm>.

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- The INS has fallen behind in the development of the SEVIS reporting system and cannot alter that fact with a federal rule;
- Given the INS does not realistically know at this time when the system will be fully available to schools, the reporting deadline should be set through a separate rule making once the system is fully tested and complete. ACE proposed a 180 day grace period after the Inspector General certified that SEVIS is fully operational and software is available for purchase;
- Although anticipated SEVIS implementation costs are substantial, both costs and methods of calculating them vary so greatly among schools that the INS should examine comments submitted by individual schools, which will provide a concrete basis for gauging the range of costs;
- The INS should correlate number of DSO's with size of F-1 population. ACE argued for school's flexibility in determining the number of DSO's;
- The INS has a heavy obligation to provide all possible information and training, not only for DSO's, but for all school personnel who will have to implement SEVIS. ACE argued against mandatory INS training and certification and recommended voluntary training provided by organizations like NAFSA.

The INS Response

According to Gose[16], the U. S. Department of Justice released a report during the week of May 20-24, 2002, that says SEVIS will not be ready by the January 30, 2002 deadline. In the May 16, 2002 INS published proposed rule, the INS realizes that the deadline may pose compliance challenges, so the agency is soliciting comments from affected schools and programs regarding how much time they will need to convert to SEVIS[17]. The INS is also conducting one-day SEVIS workshops across the country, with one at the Yale University in May and one on June 11, 2002, at the Central Connecticut State University.

The INS has not responded to the comments received on its May 16th proposed rules.

Provisions in the State DMV Emergency Regulations

Regulations Currently Proposed and Implemented as Interim Rule

The Connecticut DMV issued an emergency regulation on February 21, 2002, effective for 90 days until final legislative approval. After consulting with various immigrant advocacy groups in Connecticut, the DMV issued a revised proposed rule that requires all applicants for Connecticut driver's licenses and identity cards to submit evidence that they are either U. S. citizens, permanent residents, or legal non-immigrants.

[16] Gose, B. (2002). INS database won't make deadline. In *The Chronicle of Higher Education* (May 31). A23.
[17] West Group, Ibid., p. 774.

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According to the International Institute of Connecticut, a non-profit immigrant and refugee advocacy organization based in Bridgeport with branch offices in Hartford and Stamford, DMV has requested assistance from them to prepare for the final wording of the regulations.

This revision, in comparison to its earlier versions, has broadly included the constituencies of higher education and the rest of the legal immigrant groups. The institutions of higher education, however, are concerned about the implementation, training and information communication between the DMV headquarters and its field offices.

Impact on Foreign Students and Scholars in Connecticut Higher Education Institutions

In April 2002, the NAFSA regional representative reported repeated difficulties when legitimately enrolled students from the University of Connecticut tried to obtain Connecticut driver licenses. In one instance, a student's application was refused by the DMV office in Willimantic and was instructed to apply in its Enfield Office. In Enfield, the student was told by a DMV staff member that he was an illegal immigrant and he should leave the office, despite the fact that the student presented the INS validated form I-20 along with his passport and entry visa[18].

The DMV has scheduled a hearing on Monday, June 17, 2002. After the hearing, the DMV will propose final wording of its regulations and submit them to the Regulations Review Committee of the General Assembly. According to Leete (2002)[19],

> the regulations will not be submitted to the Transportation Committee or to the Judiciary Committee, which arguably are the committees most concerned. Comments can be made to members of any of these committees, but comments to the Regulations Review Committee are most needed. Further, verifying the status of every alien who applies for a license is an administrative nightmare, because of the variety of documents and different ways in which a person can be legal. It is a task best undertaken only by the INS itself.

Discussions

Federal Laws and Regulations

The current and proposed federal laws and regulations may create challenges for foreign students and institutions of higher education in the following areas:

- Increased difficulty for students to obtain U. S. student visas;

[18] Robert J. Chudy, NAFSA Regional Representative, University of Connecticut, U-Box 182, Storrs, CT 06269. Telephone: (860) 486-3855.

[19] Leete, E. B. (2002). *Memorandum to the Connecticut Department of Higher Education Regarding the Impact of DMV Driver License Restriction on Higher Education Institutions* (June 4). Elizabeth B. Leete, Esq., is the American Immigration Lawyers Association's (AILA) <www.aila.org> liaison to the Connecticut DMV, and a Senior Partner at Leete & Kosto, LLP <www.visacounsel.com>. For more information, contact her at 21 Oak Street, Suite 309, Hartford, CT 06106. Telephone: (860) 249-8100.

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- Limit of students' ability to obtain student visa from countries other than their own;
- Limit of students' ability to change visa status after they arrive in the country unless they declare their intention to study during entry inspection;
- Implementation of the SEVIS system in timing, funding and personnel;
- Ethical dilemma posed on institutions of higher education when they administer student admissions process: should they ask students about their immigrant status? Can they deny admissions or course registration based on their immigrant status?
- Changes in the relationship between institutions of higher education and foreign students in the areas of immigration advising as the institutions are required by law to report student records and activities. Can foreign student advisors continue to serve as mentors or counselors for the students, or are they merely "immigration specialists", even as an "arm of the law enforcement agency?"
- Creates a great challenge for the state's community colleges to administer SEVIS. The overall number of foreign students in the community colleges is not significant (475 non-resident aliens among the total enrollment of 42,642 in the Fall of 2001 (1.1%)[20]). The majority of students are concentrated at Gateway (65), Housatonic (50), Middlesex (26), Naugatuck Valley (51), and Norwalk (222). The rest of them are enrolled on the other campuses. Should the community college system administer the SEVIS program as a whole, or should they administer it on each individual campus?

State DMV Practices

Although the DMV proposed regulations do not intend to exclude students and scholars, the implementation process may continue to cause sufficient concerns for students and scholars. Institutions may need to establish a closer working relationship with DMV to monitor the progress.

[20] IPEDS, Ibid.

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Appendix I

Enhanced Border Security and Visa Entry Reform Act of 2002
(Enrolled bill, as passed by the House on May 8, 2002 and sent to the President)
H.R.3525 (enrolled bill)

One Hundred Seventh Congress
of the
United States of America

AT THE SECOND SESSION

TITLE V--FOREIGN STUDENTS AND EXCHANGE VISITORS

Sec. 501. Foreign student monitoring program.
Sec. 502. Review of institutions and other entities authorized to enroll or sponsor certain nonimmigrants.

TITLE V--FOREIGN STUDENTS AND EXCHANGE VISITORS

SEC. 501. FOREIGN STUDENT MONITORING PROGRAM.

(a) STRENGTHENING REQUIREMENTS FOR IMPLEMENTATION OF MONITORING PROGRAM-

(1) MONITORING AND VERIFICATION OF INFORMATION- Section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)) is amended by adding at the end the following:

'(3) ALIENS FOR WHOM A VISA IS REQUIRED- The Attorney General, in consultation with the Secretary of State, shall establish an electronic means to monitor and verify--

'(A) the issuance of documentation of acceptance of a foreign student by an approved institution of higher education or other approved educational institution, or of an exchange visitor program participant by a designated exchange visitor program;

'(B) the transmittal of the documentation referred to in subparagraph (A) to the Department of State for use by the Bureau of Consular Affairs;

'(C) the issuance of a visa to a foreign student or an exchange visitor program participant;

'(D) the admission into the United States of the foreign student or exchange visitor program participant;

'(E) the notification to an approved institution of higher education, other approved educational institution, or exchange visitor program sponsor that the foreign student or exchange visitor participant has been admitted into the United States;

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`(F) the registration and enrollment of that foreign student in such approved institution of higher education or other approved educational institution, or the participation of that exchange visitor in such designated exchange visitor program, as the case may be; and

`(G) any other relevant act by the foreign student or exchange visitor program participant, including a changing of school or designated exchange visitor program and any termination of studies or participation in a designated exchange visitor program.

`(4) REPORTING REQUIREMENTS- Not later than 30 days after the deadline for registering for classes for an academic term of an approved institution of higher education or other approved educational institution for which documentation is issued for an alien as described in paragraph (3)(A), or the scheduled commencement of participation by an alien in a designated exchange visitor program, as the case may be, the institution or program, respectively, shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation.'.

(2) ADDITIONAL REQUIREMENTS FOR DATA TO BE COLLECTED- Section 641(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)(1)) is amended--

(A) by striking `and' at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting `; and'; and

(C) by adding at the end the following:

`(E) the date of entry and port of entry;

`(F) the date of the alien's enrollment in an approved institution of higher education, other approved educational institution, or designated exchange visitor program in the United States;

`(G) the degree program, if applicable, and field of study; and

`(H) the date of the alien's termination of enrollment and the reason for such termination (including graduation, disciplinary action or other dismissal, and failure to re-enroll).'.

(3) REPORTING REQUIREMENTS- Section 641(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)) is amended by adding at the end the following new paragraph:

`(5) REPORTING REQUIREMENTS- The Attorney General shall prescribe by regulation reporting requirements by taking into account the curriculum calendar of the approved institution of higher education, other approved educational institution, or exchange visitor program.'.

(b) INFORMATION REQUIRED OF THE VISA APPLICANT- Prior to the issuance of a visa under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), each alien applying for such visa shall provide to a consular officer the following information:

(1) The alien's address in the country of origin.

(2) The names and addresses of the alien's spouse, children, parents, and siblings.

(3) The names of contacts of the alien in the alien's country of residence who could verify information about the alien.

(4) Previous work history, if any, including the names and addresses of employers.

(c) TRANSITIONAL PROGRAM-

(1) IN GENERAL- Not later than 120 days after the date of enactment of this Act and until such time as the system described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act (as amended by subsection (a)) is fully implemented, the following requirements shall apply:

(A) RESTRICTIONS ON ISSUANCE OF VISAS- A visa may not be issued to an alien under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), unless--

(i) the Department of State has received from an approved institution of higher education or other approved educational institution electronic evidence of documentation of the alien's acceptance at that institution; and

(ii) the consular officer has adequately reviewed the applicant's visa record.

(B) NOTIFICATION UPON VISA ISSUANCE- Upon the issuance of a visa under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)) to an alien, the Secretary of State shall transmit to the Immigration and Naturalization Service a notification of the issuance of that visa.

(C) NOTIFICATION UPON ADMISSION OF ALIEN- The Immigration and Naturalization Service shall notify the approved institution of higher education or other approved educational institution that an alien accepted for such institution or program has been admitted to the United States.

(D) NOTIFICATION OF FAILURE OF ENROLLMENT- Not later than 30 days after the deadline for registering for classes for an academic term, the approved institution of higher education or other approved educational institution shall inform the Immigration and Naturalization Service through data-sharing arrangements of any failure of any alien described in subparagraph (C) to enroll or to commence participation.

(2) REQUIREMENT TO SUBMIT LIST OF APPROVED INSTITUTIONS- Not later than 30 days after the date of enactment of this Act, the Attorney General shall provide the Secretary of State with a list of all approved institutions of higher education and other approved educational institutions that are authorized to receive nonimmigrants under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)).

(3) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 502. REVIEW OF INSTITUTIONS AND OTHER ENTITIES AUTHORIZED TO ENROLL OR SPONSOR CERTAIN NONIMMIGRANTS.

(a) PERIODIC REVIEW OF COMPLIANCE- Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review of the institutions certified to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)). Each review shall determine whether the institutions are in compliance with--

(1) recordkeeping and reporting requirements to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of that Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)); and

(2) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(b) PERIODIC REVIEW OF SPONSORS OF EXCHANGE VISITORS-

(1) REQUIREMENT FOR REVIEWS- Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review of the entities designated to sponsor exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)).

(2) DETERMINATIONS- On the basis of reviews of entities under paragraph (1), the Secretary shall determine whether the entities are in compliance with--

(A) recordkeeping and reporting requirements to receive nonimmigrant exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)); and

(B) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(c) EFFECT OF MATERIAL FAILURE TO COMPLY- Material failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

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